

# HOUSE BILL REPORT

## SSB 6133

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**As Reported by House Committee On:**  
Economic Development, Agriculture & Trade

**Title:** An act relating to Christmas tree grower licensure.

**Brief Description:** Licensing Christmas tree growers.

**Sponsors:** Senate Committee on Agriculture & Rural Economic Development (originally sponsored by Senators Rasmussen, Schoesler, Swecker and Pridemore).

**Brief History:**

**Committee Activity:**

Economic Development, Agriculture & Trade: 2/17/06, 2/22/06 [DP].

**Brief Summary of Substitute Bill**

- Requires Christmas tree growers, with certain exceptions, to obtain a license from the Department of Agriculture (Department).
- Authorizes the Department to adopt rules for inspection and/or certification of Christmas trees and fees for licensure of Christmas tree growers.
- Authorizes actions by the Department related to inspection, certification, enforcement, licensure, and appointment of an advisory committee.

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### HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT, AGRICULTURE & TRADE

**Majority Report:** Do pass. Signed by 12 members: Representatives Linville, Chair; Pettigrew, Vice Chair; Appleton, Blake, Chase, Clibborn, Grant, McCoy, Morrell, Quall, P. Sullivan and Wallace.

**Minority Report:** Do not pass. Signed by 11 members: Representatives Kristiansen, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Bailey, Buri, Dunn, Haler, Holmquist, Kilmer, Kretz, Newhouse and Strow.

**Staff:** Meg Van Schoorl (786-7105).

**Background:**

The Plant Protection Division of the state Department of Agriculture (Department) administers programs with the goal of preventing establishment of high risk insects, plant diseases and weeds. Division staff conduct surveys and regulatory inspections; license nursery

dealers; enforce agricultural quarantines to prevent pest introductions; provide laboratory services; and carry out projects to eradicate pests such as Spartina, the gypsy moth and the Japanese beetle.

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## **Summary of Bill:**

### Definitions

The definition of "horticultural facilities" is broadened to include the premises where Christmas trees are grown, stored, handled, delivered for sale or transportation, where required records are kept or stored, and all transport vehicles and equipment. References to Christmas trees are also added to existing definitions of "inspection and/or certification," and "certificate of inspection." A "Christmas tree" is defined as a cut evergreen tree of a marketable species which is managed to produce trees at a U.S. #2 grading standard or better and which shows evidence of specified periodic maintenance practices. A "Christmas tree grower" is any person who grows Christmas trees for sale.

### Inspections, Certification, and Enforcement

The Director of the Department of Agriculture (Director) is authorized to adopt rules for: inspection and/or certification of Christmas trees as to freedom from plant pest infestation; establishing Christmas tree grower license fees and tree inspection fees; and fee collection methods.

If the Director is denied access to perform inspections at the horticultural facilities of a nursery dealer or Christmas tree grower, the dealer or grower may be subject to license revocation.

Any licensee or person financially interested in Christmas trees may request inspection and/or certification services under this chapter.

The Director may by rule require that Christmas trees delivered or shipped into Washington be inspected prior to release for conformance with the requirements of this chapter even though accompanied by acceptable inspection certificates issued by the state or country of origin.

The Director may issue a hold order on Christmas trees when there is cause to believe they are damaged, infested or infected by a plant pest. The Director may prescribe the conditions for holding the material. The Director shall condemn any Christmas trees shipped or sold if they are found to be diseased, infected, or infested to the extent that treatment is not practical, and shall order such trees either destroyed or returned at the shipper's option.

The Director may apply for a court injunction restraining a Christmas tree grower from operating without a license. An order restraining such operation must contain provision for payment of pertinent court costs, reasonable attorneys' fees, and equitable administrative expenses.

### Licensure

Christmas tree growers must obtain a license from the Department. The annual licensing fee will be established by the Director in rule and must not exceed \$75 as a base charge plus a

maximum of \$3/acre as an acreage assessment. The total annual fee must not exceed \$5,000. The information required on the license application is specified.

Exemptions from the licensing requirements are provided for Christmas tree growers who grow trees on one acre or less and whose business consists solely of retail sales to the ultimate consumer and for licensed nursery dealers who furnish live plants for planting to Christmas tree growers.

The Department is authorized to audit licensees during normal business hours to determine that required fees have been paid. The Director shall not issue a Christmas tree grower license to any applicant who has failed to pay any assessment due under this chapter.

Fees collected will be deposited in the Christmas tree account within the agricultural local fund. The fees shall be used only for the Christmas tree program established in this chapter, which may include market surveys and research related to Christmas trees.

#### License Suspension for Non-Compliance with Child Support Order

The Department must immediately suspend the Christmas tree grower license if the holder has been certified by the Department of Social and Health Services (DSHS) to be out of compliance with a child support order under Chapter 74.20A.320 RCW. If the holder continues to meet all other licensure requirements during the time of suspension, when the Department receives a release by DSHS stating that the holder has come into compliance with the child support order, the Department will automatically reissue the license.

#### Advisory Committee

An advisory committee is established to advise the Director in administering the Christmas tree program. The Director will appoint the committee with consideration given to names submitted by the Puget Sound Christmas Tree Association and Pacific Northwest Christmas Tree Association. The committee will have at least five members representing licensed Christmas tree grower and industry interests and the Director or designee. Members will serve three-year, staggered terms. Vacancies will be filled by the Director in the same way as initial appointments.

#### Unlawful Actions and Penalty for Non-Compliance

It is unlawful for any person to:

- sell, ship or transport a Christmas tree unless it meets standards in rule for freedom from plant pest infestation and other requirements;
- falsely claim to be a Christmas tree grower;
- alter an official certificate or other inspection document for plant materials including Christmas trees; or
- substitute any Christmas tree for a Christmas tree covered by an inspection certificate.

A person who fails to comply with this chapter may be subject to denial, revocation or suspension of the Christmas tree grower license.

The act expires on July 1, 2013.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** (In support) The Washington Christmas tree industry is asking for this regulation. In the event of a pest or disease infestation such as gypsy moth or sudden oak death, it is important for purposes of communication and action that the Department knows who the Christmas tree growers are and where they are located. The Department and industry need to have and present a strong partnership so that when the U.S. Department of Agriculture is considering imposing quarantines or inspection protocols, they can be assured that there is a means for the Department to detect and confiscate infested material and prevent it from being exported. Regardless of where growers ship, quarantines can affect anyone because they can even be county-specific. Because of the importance of exports to the industry, Christmas trees need to be inspected and certified to meet requirements of export markets such as Japan, Mexico, and other states. The Department has been doing these inspections for growers shipping out of state on a fee-for-service basis, and under this bill will continue to charge an inspection fee. This bill amends the existing nursery statutes but has a number of provisions paralleling Oregon statutes enacted in 1987 at grower request to meet the threat of gypsy moth. Although they are very independent, Washington growers do support this legislation, some more reluctantly than others. The 2013 expiration date is in place in case unanticipated issues arise between the industry and the Department.

(In support with concerns) We have concerns about the federal requirement for immediate suspension of licenses when child support payments are in arrears. We have heard stories about license suspensions from a couple of impacted farmers. We need to be very careful when taking away a person's ability to work. If it happens in the middle of Christmas tree shipping season, it will destroy his business and he will never be able to pay child support.

**Testimony Against:** None.

**Persons Testifying:** (In support) Senator Rasmussen, prime sponsor; and Brad Tower, Washington Christmas Tree Growers.

(In support with concerns) Jay Gordon.

**Persons Signed In To Testify But Not Testifying:** None.